

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

JACQUES RIVERA,)	
)	No. 12 CV 004428
Plaintiff,)	
)	
v.)	The Honorable Joan B. Gottschall
)	
REYNALDO GUEVARA, et al.,)	
)	
Defendants.)	

**DEFENDANTS’ MOTION IN *LIMINE* No. 9 TO BAR DR. SHARKEY, THE COOK
COUNTY HOSPITAL RECORDS, AND ANY REFERENCE TO FELIX VALENTIN’S
MEDICAL TREATMENT AND CONDITION ON SEPTEMBER 10, 1988**

Defendants Reynaldo Guevara, Steve Gawrys, Daniel Noon, Joseph Fallon, Joseph Sparks, Paul Zacharias, John Guzman, Gillian McLaughlin, the Estate of John Leonard, Edward Mingey, Russell Weingart and Rocco Rinaldi (“Defendant Officers”), by their respective attorneys, move this Honorable Court to bar Dr. Sharkey as a witness, the Cook County Hospital (“CCH”) records of Felix Valentin, and any reference to Felix Valentin’s medical treatment and condition on or about September 10, 1988.

1. Valentin was shot multiple times on August 27, 1988, was hospitalized at CCH and on September 15, 1988 died during his CCH hospitalization as a result of complications of his gunshot wounds.

2. Dr. Sharkey was one of the Valentin’s resident physicians during his hospitalization. Dr. Sharkey’s only role in this litigation is to testify about Valentin’s medical condition and treatment during Valentin’s hospitalization.

3. Valentin's CCH records and Dr. Sharkey's testimony are only relevant in this case because of the Plaintiff's due process fabrication claim alleging that Valentin's identification of Plaintiff on September 10, 1988, as recorded in a police report of September 16, 1988, was false considering his medical condition would have made it impossible for that identification to have been made.

4. This Court has dismissed the portion of Rivera's due process fabrication claim based on the allegedly falsified Valentin identification on September 10, 1988. *Dkt. # 371*. Accordingly, Valentin's condition on or about September 10, 1988 is not relevant and any reference to Valentin's medical condition on or about September 10, 1988 should be barred. Fed. R. Evid. 401 and 402.

5. Similarly, because the relevance of Dr. Sharkey and the CCH records was directly tied to the allegedly falsified Valentin identification on September 10, 1988, Dr. Sharkey's testimony and the CCH records are not relevant. Neither Dr. Sharkey's testimony nor the CCH records have any tendency to make any fact of consequence in this case more or less likely. Fed. R. Evid. 401.

6. In light of this Court's decision, Dr. Sharkey's testimony and the CCH records have little if any probative value, any of which would be significantly outweighed by unfair prejudice, confusing the issues, misleading the jury, undue delay and waste of time. Fed. R. Evid. 403. This is particularly true because Dr. Sharkey testified it would not have been "impossible" for Valentin to make an identification on September 10, 1988, and Defendants spent considerable time at Dr. Sharkey's deposition examining hospital records' accuracy, content and meaning.

7. Prior to filing this motion and in compliance with the Court's standing orders on Motions *in limine*, counsel for Defendant Officers conferred with counsel for Plaintiff on May 14, 2018. In that discussion counsel for Plaintiff did not agree to this motion *in limine*.

WHEREFORE, Defendant Officers request that the Court enter an Order *in limine* to bar Dr. Sharkey from testifying at trial, the CCH records and any reference the victim's medical treatment or condition on September 10, 1988.

Dated: May 14, 2018

/s/Thomas M. Leinenweber
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Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify under penalty of perjury pursuant to 28 U.S.C.A. § 1746 that on May 14, 2018, I electronically filed the foregoing City **Defendants' Motion in Limine No. 9 To Bar Dr. Sharkey, The Cook Hospital Records, and Any Reference to Felix Valentin's Medical Treatment and Condition On September 10, 1988** with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following CM/ECF participants below.

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